

REMARKS/ARGUMENTS

The above-identified application has been reviewed in light of the Final Office Action mailed on May 12, 2009 and in conjunction with the Request for Continued Examination filed herewith. Claims 1-3, 5-14 are currently pending, Claim 4 having been previously cancelled. By the present Amendment, Applicant has amended independent Claims 1 and 13. Applicant respectfully submits that the present Amendment does not introduce any new subject matter and is fully supported by the specification. In addition, Applicant respectfully submits that Claims 1-3, 5-14 are allowable over the references of record. In view of the amendments to independent Claims 1 and 13 effected herein and the following remarks and arguments, Applicant respectfully requests favorable reconsideration and allowance of the above-identified application.

Claim 1 was rejected in the Office Action under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. In particular, the following remarks were made:

Claim 1 recites the limitation “the locking leg portion” in lines 9-11. There is insufficient antecedent basis for this limitation in the claim.

See Office Action at page 2.

Applicant has amended Claim 1 herein in a manner which is believed will overcome the rejection of Claim 1 under 35 U.S.C § 112. Accordingly, Applicant submits that the rejection of Claim 1 under 35 U.S.C § 112 has been overcome and should be withdrawn.

Claims 1-3, 5-7, 9-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,591,206 to Moufarrege (“Moufarrege”). Applicant respectfully submits that

Moufarrege fails to disclose each and every element recited in Claims 1-3, 5-7, 9-14 as presented herein.

Under 35 U.S.C. § 102(b), to anticipate a claim, a reference must disclose each and every element set forth in the claim. *See* MPEP § 2131.

Independent Claim 1 has been amended to recite, *inter-alia*, “a suture operably associated with the anchoring leg portion of at least one of the first fastener portion and the second fastener portion wherein the anchoring leg portion of at least one of the first and second fastener portions is repositionable between the first and second positions upon manipulation of the suture.”

Independent Claim 13 has been amended to recite, *inter-alia*, “a suture operably associated with the anchoring leg portion of at least one of the first fastener portion and the second fastener portion wherein the anchoring leg portion of at least one of the first and second fastener portions is repositionable between a first and a second position upon manipulation of the suture.”

As shown in FIG. 13A, reproduced below, and as described in the specification:

First fastener portion 202 includes a suture 212 connected to anchoring leg portion 208 for pulling on anchoring leg portion 208 and lifting a distal end of anchoring leg portion 208 away from locking leg portion 206 (e.g., from first position "A" to second position "C").

Specification at ¶ [0064].

Similarly, as shown in FIG. 13B, reproduced below, and as described in the specification:

Second fastener portion 204 further includes a suture 220 connected to anchoring leg portion 216, extending around the distal end of locking leg portion 214, for pulling on anchoring leg portion 216 and lifting a proximal end of anchoring leg portion 216 away from locking leg portion 214 (e.g., from first position "A" to second position "C").
Specification at ¶ [0065].

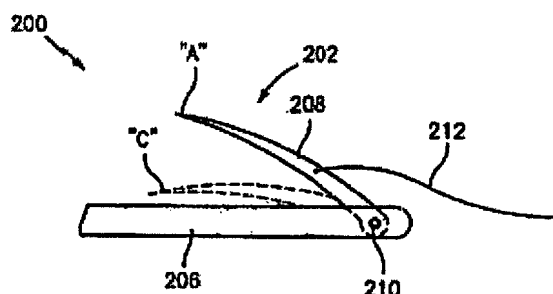


FIG. 13A

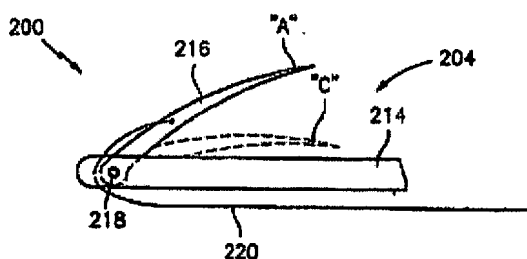
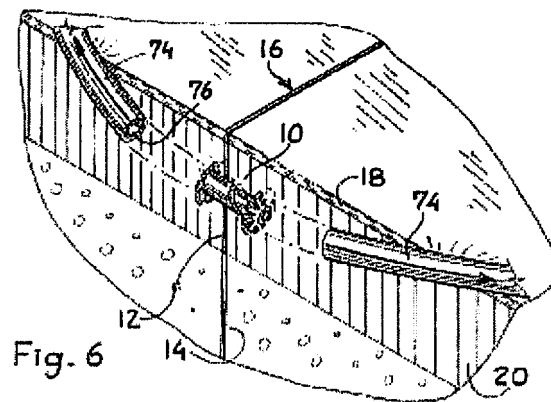
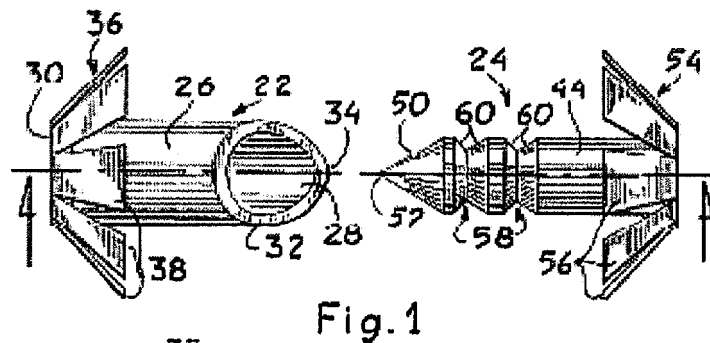


FIG. 13B

In contrast, as illustrated in FIGS. 1 and 6, reproduced below, Moufarrege relates to a wound closing device 10 including a female component 22 and a male component 24. *See* Moufarrege at column 4, lines 35-37. The female component 22 has an external peripheral gripping flange 36 extending integrally from its cylindrical body 26 adjacent its back edge 30.

Id. at column 4, lines 47-50. The gripping flange 36 is made up of a set of substantially flat trapezium-shaped gripping elements 38 extending integrally from the cylindrical body 26 and angled towards the front end of the female component 22. *Id.* at column 4, lines 50-54. The male component 24 has an external peripheral gripping flange 54 extending integrally from its cylindrical body 44. *Id.* at column 5, lines 6-8. The gripping flange 54 is similar to the gripping flange 38 of the female component 22. *Id.* at column 5, lines 8-10. The gripping flange 54 is made up of a set of substantially flat trapezium-shaped gripping elements 56 extending integrally from the cylindrical body 44 and angled towards the front end of the male component 24. *Id.* at column 5, lines 10-14. When the rear end of the components 22 and 24 are slidably inserted in a channel 76, each one of the gripping elements 38 and 56 respectively making up the gripping flanges 36 and 54, is adapted to bended forwardly about its integral connection with the respective cylindrical bodies 26 and 44. *Id.* at column 5, lines 62-67. When the gripping flanges 36 and 54 which were frictionally held inside the channels 76 are removed from the latter, the gripping elements 38 and 56 resiliently spring back to their original unfolded configuration. *Id.* at column 6, lines 54-57.



Accordingly, Moufarrege does not disclose, *inter alia*, “a suture operably associated with the anchoring leg portion of at least one of the first fastener portion and the second fastener portion wherein the anchoring leg portion of at least one of the first and second fastener portions is repositionable between the first and second positions upon manipulation of the suture”, as recited in Claim 1 as presented herein. Similarly, Moufarrege does not disclose, *inter alia*, “a suture operably associated with the anchoring leg portion of at least one of the first fastener portion and the second fastener portion wherein the anchoring leg portion of at least one of the first and second fastener portions is repositionable between a first and a second position upon manipulation of the suture”, as recited in Claim 13 as presented herein.

For at least these reasons, Applicant submits that Claims 1 and 13 are patentable over Moufarrege and are in condition for allowance. Furthermore, since Claims 2-3, 5-7, 9-12, 14 depend, either directly or indirectly from Claims 1 or 13, it is respectfully submitted that Claims 2-3, 5-7, 9-12, 14 are at least patentable for the reasons that independent Claims 1 and 13 are patentable. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Moufarrege in view of U.S. Patent No. 6,051,007 to Hogendijk ("Hogendijk"). The deficiencies of Moufarrege with respect to Claim 1 are noted above. Hogendijk does not and is not cited in the Office Action as curing the above-noted deficiencies of Moufarrege. Rather, Hogendijk is merely cited as disclosing a rectangular locking passage 25 formed in body portion 12. Since Hogendijk does not cure the deficiencies of Moufarrege with respect to Claim 1 as discussed above, Applicant submits that Claim 8 is patentable over Moufarrege and Hogendijk for at least the reason discussed above with respect to Claim 1. In view of the foregoing, reconsideration and withdrawal of the rejection of Claim 8 as being obvious over Moufarrege in view of Hogendijk is deemed appropriate and is respectfully requested.

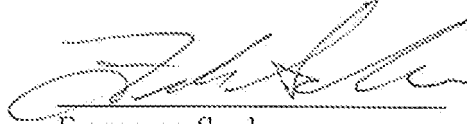
In view of the foregoing, it is respectfully submitted that all of the claims pending in the application are in condition for allowance. With this in mind, reconsideration and allowance of this application is respectfully requested.

Applicant believes that all issues raised in the Detailed Action have been responded to fully. Should the Examiner believe that a telephone interview may facilitate resolution of any

outstanding issues, the Examiner is respectfully requested to telephone Applicant's undersigned attorney at the number indicated below.

An early and favorable response on the merits is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F. Sardone', is written over a horizontal line.

Francesco Sardone
Reg. No.: 47,918
Attorney for Applicant(s)

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 420
Melville, New York 11747
Tel.: (631) 501-5700
Fax: (631) 501-3526